

## REMARKS

### Substance of Interview

Applicant's representative Elliott Mason (Reg. No. 56,569) thanks the Examiner for the telephone interview on December 3, 2007. In accordance with MPEP Section 713.04, the substance of the interview is included herein. No exhibits were shown.

The 35 U.S.C. 101 rejections were discussed, and agreement was reached that the present amendments should overcome the presently pending rejections. The Examiner indicated that future 101 rejections based on "nonfunctional descriptive matter" would likely be made, and indicated that a future 101 rejection of claim 13 would also likely be made.

The 35 U.S.C. 112 rejections were discussed, and no agreement was reached.

Regarding the 35 U.S.C. 103 rejections, Applicant's representative asked questions (submitted in advance in writing) in order to obtain clarification of the particular parts of the cited portions of the references being relied upon to reject the claims, and a clear explanation of their pertinence. The Examiner did not identify any particular parts of the cited portions being relied upon. No agreement was reached with respect to the prior art rejections.

### Amendment of Title

In the reply to the previous Office Action, Applicant amended the title in response to an objection. Applicant inadvertently based the amendment on an incorrect title "DEPENDENCY GRAPH PARAMETER SCOPING". The present amendment to the title corrects the error and replaces the incorrect original title with the correct original title "CONTROLLING TASK EXECUTION" (and preserves the text "ACCORDING TO AN ORDERING CONSTRAINT" added in the previous amendment).

### 35 U.S.C. 101 Rejections

Claims 8 – 12, and 19 stand rejected under 35 U.S.C 101 as directed to non-statutory subject matter.

Claims 8 – 12 stand rejected under 35 U.S.C. 101 as directed to non-statutory subject matter. Claim 8 has been amended to recite a “computer readable storage medium” which the Examiner indicated would overcome the present 101 rejection.

Claim 19 stands rejected under 35 U.S.C. 101 as directed to non-statutory subject matter. Applicant argued in the previous reply that claim 19 is expressed as a means for performing specified functions without the recital of structure or material in support thereof, and should therefore be construed to cover the corresponding structure or material described in the specification and equivalents thereof. Applicant submits that as long as such corresponding structure is described in the specification, there is no obligation to amend the claim to explicitly exclude equivalents of that structure which would render the claim non-statutory subject matter. If the Examiner believes that such an obligation does exist, Applicant respectfully requests a basis for such belief.

Regarding the Examiner's indication in the interview that future 101 rejections based on “nonfunctional descriptive matter” would likely be made, while Applicant will wait to fully respond to any such rejection after it has been made in a future Office Action, Applicant has amended claim 8 to explicitly indicate how the claimed data structure imparts functionality and how a computer system permits the function to be realized.

Regarding the Examiner's indication in the interview that a future 101 rejection of claim 13 would likely be made, while Applicant will wait to fully respond to any such rejection after it has been made in a future Office Action, Applicant has amended claim 13 to recite additional structure to clarify that the system is tangibly embodied in hardware.

### 35 U.S.C. 112 Rejections

Claims 26 – 32 stand rejected under 35 U.S.C. 112 as indefinite. On page 3 of the Office Action, the Examiner states “claims 26, 28, 30, and 32 recite, “relative positions”. It is unclear what is meant by relative positions or how such positions are defined (i.e. relative to what?).”

Applicant submits that the recitation of “relative positions of the plurality of attachment locations on the resource element” can be clearly understood as referring to positions “of the

plurality of attachment locations,” and that the term “relative” can be clearly understood as indicating that these positions are relative to one another. If the Examiner, after reconsidering this rejection, still believes that the claims as written are not clear in this respect, Applicant asks whether removing the term “relative” would remove any potential confusion associated with that term.

#### Prior art Rejections

Claims 1, 3, 5, 8-10, 13-14, 16, 19-20, 22, and 25-32 stand rejected under 35 U.S.C. 103(a) as unpatentable over Bayer (U.S. 5,202,987) in view of Dubourreau (U.S. 5,590,335). Claims 4, 6-7, 11-12, 15, 17-18, 21, and 23-24 stand rejected under 35 U.S.C. 103(a) as unpatentable over Bayer and Dubourreau, further in view of Waddington et al. (U.S. 5,872,981).

#### *Independent claims 1, 8, 13, and 19*

Applicant submits that no proper combination of Bayer and Dubourreau teaches or suggests at least that “couplings of task elements to attachment locations on the resource element specify an execution ordering constraint on the tasks associated with the task elements,” as recited by each of claims 1, 13, and 19, or that “associations of task elements to attachment locations specify an ordering constraint on tasks associated with the task elements,” as recited by claim 8.

On page 4 of the Office Action, the Examiner acknowledges that “Bayer does not teach a resource element having a plurality of attachment locations, and linking elements coupling the task elements to the resource element at the plurality of attachment locations, wherein couplings of task elements to attachment locations on the resource element specify an execution ordering constraint on the tasks associated with the task elements.”

The Examiner goes on to say that “Dubourreau et al. teaches the use of graph theory to solve deadlock problems where nodes can represent tasks and resources (col 1 lines 14-40). It is well known in the art that task dependency frequently involves contention for resources.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to modify Bayer by including a resource node as taught by Dubourreau.”

In the interview (and in a question submitted in writing) Applicant's representative asked “even if a person of ordinary skill in the art were to get the idea of resource elements from Dubourreau, where does Dubourreau suggest the limitation identified as missing from Bayer that ‘couplings of task elements to attachment locations on the resource element specify an execution ordering constraint on the tasks associated with the task elements’?”

The Examiner did not offer any specific portions of Dubourreau as disclosing or even suggesting this limitation. When asked for an example of specific reasoning that a person of ordinary skill in the art would have used to arrive at this limitation from the teachings of the references, the Examiner offered no specific reasoning beyond the conclusory statement that a person of ordinary skill in the art would have arrived at the limitation “based on the teachings of both references.”

According to MPEP § 2141:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. ***Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.***

Thus, Applicant submits that the Examiner has not properly established a *prima facie* 35 USC 103(a) rejection of claim 1, 8, 13, or 19 at least because the Examiner has not established a factual basis for stating the prior art references when combined teach or suggest all the claim limitations, including that “couplings” or “associations” of task elements to attachment locations specify an ordering constraint on tasks associated with the task elements.

#### *Independent claim 25*

No proper combination of Bayer and Dubourreau teaches or suggests at least “linking elements coupling the task elements to the resource element at a plurality of attachment

locations, in a time-ordered sequence defining an execution ordering constraint on the tasks associated with the task elements,” as recited by claim 25.

The Examiner indicates that claim 25 is rejected for the same reasons as claim 1 (Office Action page 6). However, Applicant points out that the claim 1 does not recite that “linking elements coupling the task elements to the resource element at a plurality of attachment locations, in a time-ordered sequence defining an execution ordering constraint on the tasks associated with the task elements.”

Thus, Applicant submits that the rejection of claim 25 is improper at least because the Examiner has made a clear error in the basis of the rejection by not even addressing this limitation.

*Dependent Claims 3, 5, 9-10, 14, 16, 20, 22, and 26-32*

These dependent claims are properly dependent on a respective one of the independent claims, and are thus allowable therewith. These dependent claims add one or more further limitations, which are not presently relied upon to establish patentability. For that reason, and not because Applicant agrees with the Examiner, no rebuttal is offered to the Examiner's reasons for rejecting these dependent claims.

*Dependent claims 4, 15, and 21*

No proper combination of Bayer, Dubourreau and Waddington teaches or suggests the subject matter of independent claims 1, 13, and 19 found to be lacking in Bayer and Dubourreau. These dependent claims are each properly dependent on one of these independent claims, and are thus allowable therewith.

Additionally, these claims recited that “the resource element comprises a timeline with the attachment locations being associated with points on the timeline.”

In the interview (and in a question submitted in writing) Applicant's representative asked “what is the proposed reasoning that a person of ordinary skill in the art would have gone through to say that because Waddington uses a timeline in a timing diagram to illustrate his

invention, it is desirable to use a timeline as a resource element in a specification of a graphical representation of task execution in a computer system? For example, does Waddington suggest this use of a timeline, and if so where?" The Examiner offered no additional reasoning that a person of ordinary skill in the art would have used to arrive at the claimed subject matter.

Applicant submits that a person of ordinary skill in the art would not have modified Waddington's use of a timeline in a timing diagram to illustrate his invention to arrive at the use a timeline as a resource element in a specification of a graphical representation of task execution in a computer system without relying on improper hindsight from Applicant's own specification.

*Dependent Claims 6-7, 11-12, 17-18, and 23-24*

No proper combination of Bayer, Dubourreau and Waddington teaches or suggests the subject matter of independent claims 1, 8, 13, 19, and 25 found to be lacking in Bayer and Dubourreau. These dependent claims are each properly dependent on one of these independent claims, and are thus allowable therewith. These dependent claims also add one or more further limitations, which are not presently relied upon to establish patentability. For that reason, and not because Applicant agrees with the Examiner, no rebuttal is offered to the Examiner's reasons for rejecting these dependent claims.

\$485 for excess claim fees and \$230 for the Petition for Extension of Time fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account Authorization. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 07470-072001.

Applicant : Inchingolo et al.  
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Respectfully submitted,

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